



Community Planning & Development Department

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Issaquah, WA 98027

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issaquahwa.gov

SEPA DETERMINATION MITIGATED DETERMINATION OF NONSIGNIFICANCE (MDNS)

Description of Proposal: Subdivide a 4.90-acre site into 20 single-family residential lots. The site consists of a Class 2 Stream, a Class VI stream, a Category III wetland, moderate coal mine hazard areas, and steep slopes. The project is proposing to construct within a moderate coal mine hazard area and will impact the associated critical area buffers by placing utilities in the inner extent of the buffers. The applicant is also proposing to construct undeveloped right-of-way, which will provide primary access to 17 of the 20 lots.

Project Name: Mine Hill Creek Plat

Proponent: Boardwalk Real Estate, LLC
c/o: Ken Lyons
17533 47th Ave NE
Lake Forest Park, WA 98155

Permit Number: PRJ13-00042, SEP18-00018, PP18-00003, VAR20-00001

Location of Proposal: 345 Mine Hill RD SW & 375 Mine Hill RD SW, Issaquah, WA 98027

Lead Agency: City of Issaquah

Project Planner: Valerie Porter, Associate Planner
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Determination: The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

Comment/Appeal Period Under WAC 197-11-340(2) and 197-11-680(3)(a)vii there is a 21-day combined comment and appeal period for this determination, between **February 12, 2021 to March 5, 2021**. Anyone wishing to comment may submit written comments to the Project Planner at the email address or mailing address above. The Responsible Official will reconsider the determination based on timely comments and may retain or modify the Mitigated Determination of Nonsignificance.

Any person aggrieved by this determination may appeal by filing a Notice of Appeal no later than 5:00 p.m. on **March 5, 2021** and paying a \$750 filing fee. Appeals may be filed electronically by emailing the same to CPDSupportServices@issaquahwa.gov. A hard copy of the Notice of Appeal and a check for the filing fee must be deposited in the mail addressed to City of Issaquah Permit Center, Attention Candy Baer, PO Box 1307, Issaquah, WA 98027 and post-marked no later than **March 5, 2021** in order for the appeal to be valid.

Copies of the environmental determination and other project application documents are available at the City's website: <http://issaquahwa.gov/development>. Click on the parcel, then select "View Related Documents and Permits" to see the available submittals. The full application is available for review, by appointment through the Project Planner, at the Permit Center, 1775 12th Ave NW, Issaquah, WA 98027.

Any appeal hearings for this SEPA determination must be consolidated with appeal hearing(s) for the underlying land use permit, per IMC 18.04.250. If you do not also appeal an underlying land use permit for this project when that permit is issued, your SEPA appeal cannot proceed.

Notes:

1. This threshold determination is based on review of the site plan, existing survey, utilities plan, grading/drainage plan, and tree retention plan received October 6, 2020; environmental checklist dated September 11, 2019 and revised on June 26, 2020; and other documents in the file.
2. Issuance of this threshold determination does not constitute approval of the permit. The proposal will be reviewed for compliance with all applicable City of Issaquah codes, which regulate development activities, including the Land Use Code, Critical Area Regulations, Building Codes, Clearing and Grading Ordinance, and Surface Water Design Manual.

Findings:

1. **Stream:** The site contains two streams, Stream A and Stream B. Stream A, known as "Mine Hill Creek", is classified as a Class 2 stream without salmonids and has a 75-foot buffer in addition to the 15-foot building setback line (BSBL). Mine Hill Creek bisects the site into east and west parts with 3 lots on the east side and 17 lots on the west side. Stream B, unnamed, is classified as a Class 4 Stream with a 25-foot buffer and a 15-foot BSBL. This stream is located in between Lots 4 and 5.

The applicant proposes to reduce the stream buffer for Mine Hill Creek from 75-feet to 56.25-feet in some areas with planting enhancement of the reduced stream buffer area. The City's Critical Area Code allows a maximum 25% reduction to the regulated stream buffer provided the reduced buffer area is enhanced with native species (IMC 18.10.790(D)(1) and 18.10.790(D)(4)). The rationale behind the code standard is that a reduced buffer area that is fully enhanced with native trees and shrubs provide improved buffer functions over a wider buffer that is not composed of native species to provide for buffer functions. Enhancement of the reduced buffer area would improve buffer functions over the existing conditions.

Stream B does not connect to any other wetlands or streams and its flows infiltrate. To ensure the proposed development does not impact the stream, the applicant is proposing to utilize buffer averaging (IMC 18.10.790), resulting in a portion of the buffer area being relocated from the west side of the stream to the east side.

The Critical Area Regulations require a planting density to ensure establishment of a functioning native plant buffer. The applicant submitted a preliminary mitigation plan for the reduced stream buffer area. IMC 18.10.790(D)(4)(c)(3)(b) requires a planting density of 10-feet on-center spacing for trees and 5-feet on-center spacing for shrubs in addition to fencing and signage being placed at the outer edge of the critical area border.

2. **Wetland:** A “Critical Area Study, Wetlands and Streams” report (Aquatica Environmental Consulting, LLC, October 23, 2018) was submitted with the application, including; wetland delineation and wetland rating, stream classification, and summary of project impacts and mitigation. The wetland delineation and rating were evaluated by an outside biologist peer review, which confirmed the accuracy of the wetland boundaries and wetland rating.

There is a wetland on-site that is approximately 5,775-square-feet and is located on a slope adjacent to Mine Hill Creek. This wetland is classified as a Category III wetland with a 75-foot buffer and a 15-foot BSBL. Currently, a nonconforming abandoned accessory dwelling unit (ADU) is located partially within the wetland’s buffer and the driveway that provided access to the structure is entirely located within the buffer associated with wetland and Mine Hill Creek. The project is proposing to reduce the buffer. Under IMC 18.10.650(D)(4), the standard wetland buffer area may be reduced at a 1:1 ratio with the removal of existing, legally nonconforming impervious surface area located within the wetland buffer area. The removed impervious area must be restored with native vegetation, consistent with the wetland buffer enhancement plan requirements listed within the code (IMC 18.10.650(D)(c)(3)). The narrowest wetland buffer reduction width is 59-feet.

Overall, the proposal shows 8,139-square-feet of critical area buffer to be reduced and 8,203-square-feet of impervious surface removal credits and the buffer addition. The mitigation plan proposes 63,462-square-feet of buffer enhancements and the restoration of 6,179-square-feet of temporary buffer impacts associated with utility and stormwater outfall installation.

3. **Coal Mine Hazard:** A “Preliminary Coal Mine Hazard Assessment” report (Icicle Creek Engineers, Inc., July 7, 2015) was submitted with the application. The report discusses potential hazards associated with past underground coal mines within the project site, evaluates the location of coal mine hazards, and classifies mine areas (severe, moderate, and declassified). A coal mine, No. 4, currently spans beneath the project site. Majority of the site has been considered declassified coal mine hazard areas, but moderate coal mine hazard areas have been identified within the southeastern corner of the project site. The site does not contain any severe coal mine hazard areas.

IMC 18.10.520(A)(1) states, “alteration of a site containing a coal mine hazard area may be permitted only when all significant risks associated with abandoned mine workings have been eliminated or mitigated.” The report has indicated the moderate coal mine hazard areas can be mitigated. Construction of structures within identified moderate coal mine hazard areas shall follow the recommendations in Icicle Creek Engineers’ July 7, 2015 Preliminary Coal Mine Hazard Assessment. Mitigation measures shall then be reviewed and approved by Community Planning & Development Department prior to issuing a building permit.

4. **Steep Slopes:** A geotechnical engineering report (Icicle Creek Engineers, Inc., revised June 29, 2020) was prepared to evaluate geologic and soil conditions. The report indicated the project site contains five steep slope areas and one landslide hazard areas, as defined by the Critical Area Code. IMC 18.10.580(E) allows for two limited exemptions for steep slope hazard areas; slopes meeting the exemptions are not considered regulated steep slopes. The limited exemptions are: 1) slopes 40% and steeper which have a vertical elevation change of less than 20-feet and 2) any slope which has been created through previous, legal grading activities. A global stability analysis was completed for the site and the geotechnical engineering report concluded that, of the five steep slopes, only one of the slopes is considered a regulated steep slope. The remaining four steep slopes are considered exempt from Steep Slope Hazard Area regulations.

The regulated steep slope is located within the landslide hazard area directly west of Mine Hill Creek. The report recommends reducing the steep slope buffer to 15-feet with a 15-foot BSBL. All exempt steep slopes located within the stream buffer will be placed in a critical tract, despite the exemptions.

The City required a double peer review from outside reviewers of the geotechnical report and the proposed regulated steep slope buffer reduction. The peer reviews concurred with the exemptions and the regulated steep slope buffer reduction as recommended in the Icicle Creek Engineer's geotechnical report, provided the report's recommendations are implemented, specifically in regard to site preparation, excavations and foundations, drainage and erosion control. Site specific building permit plans were not evaluated by the geotechnical study.

5. **Stormwater** – A Drainage Report (D. R. Strong Consulting Engineers, Inc., dated April 29, 2020) was prepared to address core requirements, off-site drainage analysis, stormwater facility flow control and water quality design. The project will be required to meet standards of the 2014 Ecology Storm Water Management Manual for Western Washington and the 2017 City of Issaquah Storm Water Design Manual Addendum.

The project is proposing two stormwater outfall locations to address stormwater runoff within the project site and along Mine Hill Rd SW. Both stormwater outfalls will be located on steep slopes to direct and disperse stormwater runoff into the stream buffer. Under IMC 18.10.610(B)(2) and IMC 18.10.775(E)(3), stormwater facilities shall not encroach into wetland or stream buffers by more than 25% of the standard wetland buffer width or use more than 25% of the total buffer area without a variance. To address stormwater requirements and provide essential utilities to the plat, the project is requesting a variance to allow stormwater, water, and sewer infrastructure to be placed in the inner 25% of the critical area buffer, but outside of the ordinary high-water mark. The applicant evaluated several development scenarios in consultation with the City and the selected proposal is the least environmentally damaging location. Strict compliance with the above cited requirements would result in possibly undermining the stability of the steep slopes adjacent to Mine Hill Creek and removal of additional significant trees from the site.

The stormwater facility locations are contingent on approval of the variance request. Should the request not be approved, the applicant will need to revise their proposal. The final stormwater design shall be reviewed with construction permit applications; after consideration of slope stability and minimizing impacts to vegetation.

6. **Cultural Resources**: There are two existing structures on the site in addition to an ADU, garages, and sheds. The existing homes located on the project site will remain and occupy two of the proposed lots. The abandoned ADU will be demolished. It is presumed the structures on-site are 50 years of age or older, and therefore, there is the potential the site may contain archaeological resources and a number of historical period buildings. Prior to demolition of the abandoned ADU, a Cultural Resources Assessment must be conducted. The purpose of the assessment is to determine the presence of surface and subsurface archaeological resources, as well as, historic buildings and structures that are eligible for listing on the National Register of Historic Places (NRHP).
7. **Traffic**: The proposal is estimated to generate 118 net new weekday daily trips with 18 net new trips occurring during the weekday AM peak hour and 20 net new trips occurring during the weekday PM peak hour. With the City's traffic concurrency system, development projects mitigate their impacts with payment of traffic impact fees. The City utilizes traffic impact fees to construct identified road improvements to maintain adopted level of service (LOS) standards on a City-wide basis. Lots 1-3 will gain direct access from Mine Hill Rd SW and Lots 4-20 will gain primary access from a new publicly owned street that connects to Clark St, which runs east to west and is located to the north. Additionally, on-street parking is proposed along Mine Hill Rd SW.

The subject development proposal is consistent with the growth assumptions included in the traffic concurrency model. Therefore, the proposed development can withdraw trips from the "trip bank" that was calculated for concurrency and can mitigate their traffic impacts by payment of the traffic impact fee.

8. **Bicycle and Pedestrian Facilities:** The “Traffic Impact Fee and Bicycle and Pedestrian Mitigation Fee Update” (FCS Group, July 8, 2019) was adopted by the City Council, Ordinance #2877, effective January 2, 2020. The study quantifies the direct impact of new development on the City’s current system of bicycle and pedestrian facilities and the additional demands from future growth to maintain the adopted level of service. The report identifies 16 specific bicycle and pedestrian projects that are needed to support the City’s level of service standard in the face of new development. The report then estimates the number of new PM peak hour person trip ends that new development will generate within the City by 2040, and divides the cost of the eligible projects by the number of new PM peak hour person trip ends to arrive at a per-trip fee needed to mitigate a new development’s direct impacts. The report uses trip generation rates for different land use types established in 10th Edition of the ITE Trip Generation Manual to quantify the impacts of new development.

Based on the Traffic Impact Fee and Bicycle and Pedestrian Mitigation Fee Update, the City finds that this project will have direct impacts on the City’s bicycle and pedestrian facilities because it will generate additional demand for those facilities, and that payment of the per-unit mitigation fees for single-family land uses, as determined in the study, will fully mitigate this project’s direct impacts in light of factors established in IMC 3.74.030.(A) through (F). The City additionally finds that, if the City updates its fees study between now and the date Applicant’s building permit is issued, the fee imposed under the updated study will fully mitigate the project’s impacts, as this updated study will better reflect the project’s impacts when development actually takes place.

9. **Public Services:** The “Fire Impact Fee & General Government Buildings and Law Enforcement Mitigation Fees Update” (FCS Group, July 8, 2019) was adopted by the City Council, Ordinance #2877, effective January 2, 2020. The study quantifies the direct impact of new development on the City’s governmental and law enforcement facilities. For governmental facilities, the report examines historical costs of constructing City buildings and the exiting ratio of governmental-building floor area to total development floor area in the City to calculate the impacts on the City’s general governmental level of service per square foot of new development (or per dwelling unit, in the case of single- and multi-family housing developments). For law enforcement services, the study calculated the per-incident cost of capital investment in the City’s Police Department (including vehicles and the City’s police station), then used a combination of historic incidents (for non-traffic related calls) and ITE trip generation rates (for traffic related calls) to calculate the per-dwelling-unit or per-square-foot impacts of new development on the City’s provision of law enforcement services.

Based on this study, the City finds that this project will have direct impacts on the City’s general government and law enforcement facilities because it will generate additional demand for those facilities, and that payment of the per-unit mitigation fees for multifamily development, as determined in the study, will fully mitigate this project’s direct impacts in light of factors established in IMC 3.74.030(A) through (F). The City additionally finds that, if the City updates its fee study between now and the date Applicant’s building permit is issued, the fee imposed under the updated study will fully mitigate the project’s impacts, as this updated study will better reflect the project’s impacts when development actually takes place.

Mitigation Measures: This Mitigated Determination of Nonsignificance (MDNS) is based on the checklist dated September 11, 2019 (revised on June 26, 2020) and supplemental information in the application. The following SEPA mitigation measures shall be deemed conditions of this MDNS and of the underlying permits pursuant to Chapter 18.10 of the Issaquah Municipal Code and RCW 43.21C.060. All conditions are based on policies adopted by reference in the Land Use Code.


1. The applicant shall submit a mitigation and enhancement plan for the reduced critical area buffers to demonstrate the planting will meet the required planting density and fencing is in the correct location. The mitigation plan shall be approved by Community Planning & Development Department (CPDD) prior to issuing a site work permit.

2. The final mitigation plan is required for approval by the Issaquah CPDD prior to issuing construction permits that would impact the critical areas. Final plans shall include a planting plan, grading plan and a 5-year monitoring/maintenance plan with performance standards for monitoring success of the enhancement planting. The plans shall meet King County Critical Areas Mitigation Guidelines for monitoring performance standards.
3. The applicant shall provide an as-built plan of the stream and wetland buffer enhancements and the consulting biologist shall verify in writing that the planting has been installed per plan prior to final inspection.
4. The moderate coal mine hazard area, as mapped in the Preliminary Coal Mine Hazard Assessment (Icicle Creek Engineers), shall be shown and recorded on the short plat plans. The plans shall note that construction of structures (Lots 2 and 3) within the moderate coal mine hazard area shall follow the recommendations in the final Geotechnical Report and/or Coal Mine Hazard Assessment (Icicle Creek Engineers). A third-party independent review of the geotechnical report and building plans may be required at the applicant's expense.
5. The proposal will require review and permit approval by the Washington State Department of Fish & Wildlife (Hydraulic Project Approval, HPA). A copy of the approved HPA shall be provided to CPDD prior to issuance of construction permits.
6. A Cultural Resources Assessment must be conducted prior to demolition of existing structures. In the event cultural resources are encountered during project-related excavation activities, all work in the immediate area of the find shall be halted until a qualified Archaeological Monitor can assess and evaluate the find.
7. Pursuant to the City's "Traffic Impact Fee and Bicycle and Pedestrian Mitigation Fee Update" (FCS Group, July 8, 2019) and "Fire Impact Fee & General Government Buildings and Law Enforcement Mitigation Fees Update" (FCS Group, July 8, 2019), both of which are adopted as SEPA policies under IMC 18.10.260, the applicant shall mitigate its direct impacts on general government, law enforcement, and bicycle and pedestrian facilities by voluntarily paying the mitigation fees established in the City's fee studies in effect on the date of building permit issuance.
 - a. Alternate Fees: If Applicant does not voluntarily agree to pay the mitigation fees established by the City's fee studies as described in findings 8 and 9 above, the developer may choose other methods to quantify and mitigate its direct impacts to bicycle and pedestrian, general government, and law enforcement services, which methods should include conducting a study of this project's impacts. Any alternative mitigation proposed by Applicant must be accepted by the City in a voluntary mitigation agreement executed by Applicant and the SEPA Responsible Official before the date of building permit issuance.
 - b. Assessment of Fees: The City will assess mitigation fees prior to building permit issuance. The actual cost of the mitigation fee will be the fee established in the fee studies in effect at the time of building permit issuance, or an alternate fee if Applicant and the City have executed a voluntary payment agreement by the time the fees are assessed. If Applicant does not pay the mitigation fees, the City will not issue Applicant's building permit. *See* IMC 3.74.060(B)(3).
 - c. Fee Expenditures: Applicant's mitigation fee will be held in a dedicated account will only be spent on new governmental buildings (for general government mitigation fees), law enforcement equipment and facilities (for police mitigation fees), or bicycle and pedestrian facilities (for bicycle and pedestrian fees). Applicant may offer input on how the payment should be spent by submitting SEPA comments during the SEPA comment period.

- d. Objections: Applicant objections to the voluntary mitigation fees imposed through this MDNS shall be made through SEPA comment or, at Applicant's option, through an appeal of this SEPA determination. If this MDNS is not appealed, this fee condition will be final and binding on Applicant.

Responsible SEPA Official: Lucy Sloman
Position/Title: Land Development Manager
Address/Phone: P.O. Box 1307, Issaquah, WA 98027-1307 (425) 837-3094

Date: 2/12/2021

Signature:  for Lucy Sloman

cc: Washington State Department of Ecology
Muckleshoot Indian Tribe
Snoqualmie Indian Tribe
U.S. Army Corps of Engineers
Washington State Department of Fish and Wildlife
Washington State Department of Archeology and Historic Preservation (DAHP)
Sammamish Plateau Water & Sewer District
King County Dept of Local Services - Road Services Division